

ATTACHMENT 2

COUNTY PLANNING COMMISSION  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, July 28, 2005

PRESENT: Commissioners Eugene Mehlschau, Penny Rappa, Chairman Bob Roos

ABSENT: Commissioner Sarah Christie

RESOLUTION NO. 2005-028  
RESOLUTION RELATIVE TO THE GRANTING  
A RECONSIDERATION OF A VESTING TENTATIVE TRACT MAP

WHEREAS, the County Planning Commission of the County of San Luis Obispo, State of California, did, on the 28th day of July, 2005, grant a Reconsideration of Vesting Tentative Tract Map (TRACT 2312) to NIPOMO RETAIL LLC to allow subdivision of an existing 10.98 acre parcel into 59 residential parcels ranging in size from 0.03 to 0.12 acres, 10 commercial parcels ranging in size from 0.21 to 0.84 acres, each for the purpose of sale and/or development. The proposal includes 59 duplex, triplex, and fourplex residential units, and 75,868 square feet of commercial space. The project includes one 0.67 acre parcel for a drainage basin, and one 0.43 acre parcel for open space. The project includes off-site road improvements to Hill Street, and Grande Avenue. The proposed project will result in the disturbance of the entire 10.98-acre parcel. The purpose of the reconsideration is to modify the approved commercial uses and the lot layout. The division will create an on-site road (Frontage Road). The proposed project is within the Commercial Retail land use category and is located between Hill Street and Grande Avenue, west of Highway 101 in the community of Nipomo, in the South County (Inland) planning area. COUNTY FILE NO: SUB2004-00091 / TRACT 2312. APN's: 092-130-054, -055, -057, -058. Supervisorial District: 4.

WHEREAS, The Planning Commission, after considering the facts relating to said application, approves this Permit based on the Findings listed in Exhibit A.

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WHEREAS, The Planning Commission, after considering the facts relating to said application, approves this permit subject to the Conditions listed in Exhibit B.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 28th day of July, 2005, does hereby grant the aforesaid Permit, SUB2004-00091 / TRACT 2312.

An approved or conditionally approved tentative tract map shall expire twenty-four months after its approval or conditional approval. The expiration of the approved or conditionally approved tentative tract map shall terminate all proceedings, and no tract map of all or any portion of the real property included within such tentative tract shall be filed without first processing a new tentative map. Upon application of the divider filed with the Department of Planning and Building prior to the expiration of the approved or conditionally approved tentative map, the Planning Commission may extend or conditionally extend the time at which such map expires for a period or periods not exceeding a total of five years pursuant to the provisions of Sections 66412.3, 66473 and 66474 of the Subdivision Map Act and Section 21.48.080 of the Real Property Division Ordinance (Section 21.06.010).

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six months (6) or conditions have not been complied with, such Permit approval shall become void.

On motion of Commissioner Mehlschau, seconded by Commissioner Rappa and on the following roll call vote, to-wit:

AYES: Commissioners Mehlschau, Rappa, Chairman Roos

NOES: None

ABSENT: Commissioner Christie

the foregoing resolution is hereby adopted.

/s/ Bob Roos  
Chairman of the Planning Commission

ATTEST:

/s/ Ramona Hedges  
Secretary, Pro Tem, Planning Commission



**FINDINGS - EXHIBIT A**

*Environmental Determination*

- A. The Environmental Coordinator finds that the previously adopted Negative Declaration is adequate for the purposes of compliance with CEQA because no substantial changes are proposed in the project which will require major revision of the previous Negative Declaration, no substantial changes occur with respect to the circumstance under which the project is undertaken which will require major revision of the previous Negative Declaration, and no new information of substantial importance has been identified which was not known at the time that the previous Negative Declaration was adopted.

*Tentative Map*

- B. The proposed map is consistent with applicable county general and specific plans because it complies with applicable area plan standards and is being subdivided in a consistent manner with the Commercial Retail land use category.
- C. The proposed map is consistent with the county zoning and subdivision ordinances because the parcels meet the minimum parcel size set by the Land Use Ordinance and the design standards of the Real Property Division Ordinance.
- D. The design and improvement of the proposed subdivision are consistent with the applicable county general and specific plans because the required improvements will be completed consistent with county ordinance and conditions of approval and the design of the parcels meets applicable policies of the general plan and ordinances.
- E. The site is physically suitable for the type of development proposed because the proposed parcels contain adequate area for development of commercial, office, and multi-family residences.
- F. The site is physically suitable for the proposed density of the development proposed because the site can adequately support commercial, office, and multi-family residential development.
- G. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because no rare, endangered or sensitive species are present; and mitigation measures for air quality, archaeological resources, and transportation/circulation are required.
- H. The design of the subdivision or the type of improvement will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.
- I. The proposed map complies with Section 66474.6 of the State Subdivision Map Act, as to methods of handling and discharge of waste.

**EXHIBIT B**

**CONDITIONS OF APPROVAL FOR TR 2312**

**Approved Project**

1. Reconsideration of approved Vesting Tentative Tract Map 2312 to approve a new tentative tract map to subdivide an existing 10.98 acre parcel into 59 residential parcels ranging in size from 0.03 to 0.12 acres, 10 commercial parcels ranging in size from 0.21 to 0.84 acres, each for the purpose of sale and/or development. The proposal includes 59 duplex, triplex, and fourplex residential units, and 75,868 square feet of commercial space. The project includes one 0.67 acre parcel for a drainage basin, and one 0.43 acre parcel for open space. The project includes off-site road improvements to Hill Street, and Grande Avenue. The proposed project will result in the disturbance of the entire 10.98-acre parcel. The purpose of the reconsideration is to modify the approved commercial uses and the lot layout.

**Access and Improvements**

2. Roads and/or streets to be constructed to the following standards:
  - a. Frontage Road constructed to an A-2 section within a minimum 50 foot dedicated right-of-way. On-street parking shall not be permitted on Frontage Road. A transit "turn-out" shall be provided on each side of Frontage Road, in a location to be approved by the Regional Transit Authority.
  - b. Hill Street and Grande Avenue widened to complete an A-2 section fronting the property, with detached sidewalks and a minimum 8-foot width parkway.
3. The applicant offer for dedication to the public by certificate on the map or by separate document:
  - a. For road widening purposes, the additional right-of-way needed along Hill Street and Grande Avenue, to contain the road improvements shown on the Tentative Map.
  - b. A 20 foot radius property line return at the intersection of all streets
4. All grading shall be done in accordance with Appendix 33 of the Uniform Building Code. All lot lines shall be considered as Site Area Boundaries with slopes setback accordingly.

**Improvement Plans**

5. Improvement plans shall be prepared in accordance with San Luis Obispo County Improvement Standards and Specifications by a Registered Civil Engineer and submitted to the Department of Public Works and the county Health Department for approval. The plan is to include:
  - a. Street plan and profile.
  - b. Drainage ditches, culverts, and other structures (if drainage calculations require).



- c. Water plan (County Health).
  - d. Sewer plan (County Health).
  - e. Grading and erosion control plan for subdivision related improvement locations.
  - f. Public utility plan, showing all existing utilities and installation of all utilities to serve every lot.
6. The applicant shall enter into an agreement with the county for the cost of checking the map, the improvement plans if any, and the cost of inspection of any such improvements by the county or its designated representative. The applicant shall also provide the county with an Engineer of Work Agreement retaining a Registered Civil Engineer to furnish construction phase services, Record Drawings and to certify the final product to the Department of Public Works.
7. The Registered Civil Engineer, upon completion of the improvements, must certify to the Department of Public Works that the improvements are made in accordance with all conditions of approval, including any related land use permit conditions and the approved improvement plans. All public improvements shall be completed prior to occupancy of any new structure.
8. **Prior to issuance of construction permits**, the following notes shall be shown on grading and building plans. In addition, the contractor or builder shall designate a person or persons to monitor the dust control program and order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD prior to site disturbance.
- a. Reduce the amount of disturbed area where possible.
  - b. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible;
  - c. All dirt stock-pile areas should be sprayed daily as needed;
  - d. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities;
  - e. Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast-germinating native grass seed and watered until vegetation is established;
  - f. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;
  - g. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used;
  - h. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;
  - i. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114.
  - j. Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site.



- k. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible.
9. **Prior to construction permit issuance**, a geologic investigation will be prepared and then submitted to the county to determine the presence of naturally-occurring asbestos. If naturally occurring asbestos is found at the site, the applicant must comply with all requirements outlined in the Asbestos ATCM before grading begins. These requirements may include, but are not limited to, 1) preparation of an "Asbestos Dust Mitigation Plan", which must be approved by APCD before grading begins; 2) an "Asbestos Health and Safety Program", as determined necessary by APCD.
10. **Prior to issuance of construction permits**, the applicant shall include the following elements in the final design of the project:
  - a. Provide on-site bicycle parking as close as practical to door openings at all buildings. One bicycle parking space for every 10 car parking spaces is considered appropriate.
  - b. Provide on-site banking (ATM) and postal services.
  - c. Shade tree planting along southern exposures of buildings to reduce summer cooling needs.
  - d. Shade tree planting in parking lots to reduce evaporative emissions from parked vehicles.
  - e. Street lighting plan showing all proposed parking lot and street lights. All lights shall be shielded so that no direct light nor reflected light is visible off-site.
11. **Prior to approval of subdivision improvements plans or grading permits**, the applicant shall submit an archaeological monitoring plan, for review and approval by the Environmental Coordinator. The desired monitoring effort would be considered a low to moderate level.
12. **Prior to issuance of construction permits**, the applicant shall submit an air quality mitigation plan to the Department of Planning and Building and APCD. The plan shall show how all applicable standard and discretionary measures listed in the APCD letter dated September 23, 2004 have been fulfilled.

#### **Drainage**

13. Submit complete drainage calculations to the Department of Public Works for review and approval.
14. If calculations so indicate, drainage must be retained in a drainage basin on the property. The design of the basin to be approved by the Department of Public Works, in accordance with county standards.
15. If a drainage basin is required, the drainage basin along with rights of ingress and egress be:
  - a. offered for dedication to the public by certificate on the map with an additional easement reserved in favor of the owners and assigns.

#### **Utilities**

Planning Commission  
Tract 2312 / Nipomo Center LLC

16. Electric and telephone lines shall be installed underground.
17. Cable T.V. conduits shall be installed in the street.
18. Gas lines shall be installed.

#### **Design**

19. The lots shall be numbered in sequence.
20. The applicant shall apply to the Department of Planning and Building for approval of new street names prior to the filing of the final parcel or tract map. Approved street names shall be shown on the final parcel or tract map.

#### **Vector Control and Solid Waste**

21. A determination of method of pick-up shall be specified by the waste handler and if centralized facilities for the pick-up are required, provisions shall be made within the project for central facilities that meet Land Use Ordinance requirements for trash enclosures. If centralized facilities are established, this shall include provisions for recycling if service is available or subsequent installation of such facilities if recycling service becomes available in the future.

#### **Fire Protection**

22. The applicant shall obtain a fire safety clearance letter from the California Department of Forestry (CDF)/County Fire Department establishing fire safety requirements prior to filing the final parcel or tract map.

#### **Parks and Recreation (Quimby) Fees**

23. Unless exempted by Chapter 21.09 of the county Real Property Division Ordinance or California Government Code section 66477, prior to filing of the final parcel or tract map, the applicant shall pay the in-lieu" fee that will be used for community park and recreational purposes as required by Chapter 21.09. The fee shall be based on the total number of new parcels or remainder parcels shown on the map that do not already have legal residential units on them.

#### **Affordable Housing Fee**

24. **Prior to filing the final parcel or tract map**, the applicant shall pay an affordable housing fee of 3.5 percent of the adopted public facility fee effective at the time of recording for each residential lot. This fee shall not be applicable to any official recognized affordable housing included within the residential project.

#### **Additional Map Sheet**

25. The applicant shall prepare an additional map sheet to be approved by the county Department of Planning and Building and the Department of Public Works. The



additional map sheet shall be recorded with the final parcel or tract map. The additional map sheet shall include the following:

- a. If improvements are bonded for, all public improvements (roads, drainage, and utilities) shall be completed prior to occupancy of any new structure.
- b. **Prior to issuance of construction permits**, the following notes shall be shown on grading and building plans. In addition, the contractor or builder shall designate a person or persons to monitor the dust control program and order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD prior to site disturbance.
  - i. Reduce the amount of disturbed area where possible.
  - ii. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible;
  - iii. All dirt stock-pile areas should be sprayed daily as needed;
  - iv. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities;
  - v. Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast-germinating native grass seed and watered until vegetation is established;
  - vi. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;
  - vii. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used;
  - viii. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;
  - ix. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114.
  - x. Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site.
  - xi. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible.
- c. **Prior to issuance of construction permits**, the applicant shall include the following elements in the final design of the project:
  - i. Provide on-site bicycle parking as close as practical to door openings at all buildings. One bicycle parking space for every 10 car parking spaces is considered appropriate.
  - ii. Provide on-site banking (ATM) and postal services.
  - iii. Shade tree planting along southern exposures of buildings to reduce summer cooling needs.
  - iv. Shade tree planting in parking lots to reduce evaporative emissions from parked vehicles.



- v. Street lighting plan showing all proposed parking lot and street lights. All lights shall be shielded so that no direct light nor reflected light is visible off-site.
- d. **Prior to construction permit issuance**, a geologic investigation will be prepared and then submitted to the county to determine the presence of naturally-occurring asbestos. If naturally occurring asbestos is found at the site, the applicant must comply with all requirements outlined in the Asbestos ATCM before grading begins. These requirements may include, but are not limited to, 1) preparation of an "Asbestos Dust Mitigation Plan", which must be approved by APCD before grading begins; 2) an "Asbestos Health and Safety Program", as determined necessary by APCD.
- e. To avoid incompatibilities with residential uses (complaints from odors and/or dust), no nail salons, dry-cleaners, coffee roasters, furniture refurbishing/refinishing or similar uses may occur in buildings with residential units.
- f. **Prior to issuance of building permits, in the instance wood burning stoves are proposed**, the applicant shall submit building plans showing the use of APCD-approved wood burning devices limited to the following:
  - i. All EPA-Certified Phase II wood burning devices;
  - ii. Catalytic wood burning devices that emit less than or equal to 4.1 grams per hour of particulate matter that are not EPA-Certified but have been verified by a nationally-recognized testing lab;
  - iii. Non-catalytic wood burning devices that limit less than or equal to 7.5 grams per hour of particulate matter that are not EPA-Certified but have been verified by a nationally-recognized testing lab;
  - iv. Pellet-fueled woodheaters, and;
  - v. Dedicated gas-fired fireplaces.
- g. **Prior to issuance of construction permits**, the applicant shall submit an air quality mitigation plan to the Department of Planning and Building and APCD. The plan shall show how all applicable standard and discretionary measures listed in the APCD letter dated September 23, 2004 have been fulfilled.
- h. **Prior to approval of grading permits**, the applicant shall submit an archaeological monitoring plan, for review and approval by the Environmental Coordinator. The desired monitoring effort would be considered a low to moderate level.
- i. **During construction activities**, the applicant shall retain a qualified archaeologist, approved by the Environmental Coordinator, to monitor earth disturbing activities on the subject property in compliance with an approved monitoring plan. If any archaeological resources are found during monitoring work shall stop within 150 feet of the resource until such time as the resource can be evaluated by an archaeologist. The applicant shall implement the recommendations of the archaeologist, as required by the Environmental Coordinator. Upon completion of all monitoring/mitigation activities, and prior to occupancy or final inspection, whichever occurs first, the consulting archaeologist shall submit a letter to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met.



- j. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
  - i. Construction activities shall cease, and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
  - ii. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.
- k. **At the time of application for construction permits**, the applicant shall show the following on the project plans. Prior to final inspection, the applicant shall provide certification to the county, from an engineer qualified in noise analysis, that the project incorporates the following for all office and residential buildings:
  - i. The structure is provided with air conditioning or mechanical ventilation.
  - ii. All exterior doors are solid core with perimeter weather stripping and threshold seals.
  - iii. All fresh air inlets or exhaust vents located on the Highway 101 side of the structure incorporate sound attenuation and noise baffling.
  - iv. Glass in both windows and doors in all rooms on the Highway 101 side of the structure does not exceed 20% of the floor area of the room.
  - v. Exterior walls consist of stucco or brick veneer, or wood siding with a ½" minimum thickness fiberboard (i.e. soundboard) underlayer is used.
- l. **Prior to final inspection or occupancy**, whichever occurs first, the applicant shall provide certification from an engineer qualified in noise analysis that a noise level of 45 dbA or less can be maintained inside the structure with the windows and doors closed (when buildout of Highway 101 is considered). In the event the acceptable noise level is not reached, additional measures shall be installed, as directed by the acoustical expert, to the extent that the acceptable noise level is achieved. The applicant shall provide to the county written verification by the acoustical expert that acceptable levels have been achieved.

#### **Covenants, Conditions and Restrictions**

- 26. The developer shall submit proposed covenants, conditions, and restrictions for the subdivision to the county Department of Planning and Building for review and approval. The CC&R's shall provide at a minimum the following provisions:
  - a. On-going maintenance of drainage basin and adjacent landscaping in a viable condition on a continuing basis into perpetuity.
  - b. Maintenance of common areas.
  - c. Maintenance of all local streets within the subdivision until acceptance by a public agency.
  - d. **During construction activities**, the applicant shall retain a qualified archaeologist, approved by the Environmental Coordinator, to monitor earth disturbing activities on



the subject property. If any archaeological resources are found during monitoring work shall stop within 150 feet of the resource until such time as the resource can be evaluated by an archaeologist. The applicant shall implement the recommendations of the archaeologist, as required by the Environmental Coordinator. Upon completion of all monitoring/mitigation activities, and prior to occupancy or final inspection, whichever occurs first, the consulting archaeologist shall submit a letter to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met.

- e. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
  - i. Construction activities shall cease, and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
  - ii. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.
- m. **At the time of application for construction permits**, the applicant shall show the following on the project plans. Prior to final inspection, the applicant shall provide certification to the county, from an engineer qualified in noise analysis, that the project incorporates the following for all office and residential buildings:
  - i. The structure is provided with air conditioning or mechanical ventilation.
  - ii. All exterior doors are solid core with perimeter weather stripping and threshold seals. All fresh air inlets or exhaust vents located on the Highway 101 side of the structure incorporate sound attenuation and noise baffling.
  - iii. Glass in both windows and doors in all rooms on the Highway 101 side of the structure does not exceed 20% of the floor area of the room.
  - iv. Exterior walls consist of stucco or brick veneer, or wood siding with a ½" minimum thickness fiberboard (i.e. soundboard) underlayer is used.
- n. **Prior to final inspection or occupancy**, whichever occurs first, the applicant shall provide certification from an engineer qualified in noise analysis that a noise level of 45 dbA or less can be maintained inside the structure with the windows and doors closed (when buildout of Highway 101 is considered). In the event the acceptable noise level is not reached, additional measures shall be installed, as directed by the acoustical expert, to the extent that the acceptable noise level is achieved. The applicant shall provide to the county written verification by the acoustical expert that acceptable levels have been achieved.

### **Miscellaneous**

- 27. This subdivision is also subject to the standard conditions of approval for all subdivisions using community water and sewer a copy of which is attached hereto and incorporated by reference herein as though set forth in full.



28. A stormwater pollution plan may be necessary from the Regional Water Quality Control Board. Provide evidence that it has been obtained or is unnecessary prior to filing the map.
29. All timeframes on approved tentative maps for filing of final parcel or tract maps are measured from the date the Review Authority approves the tentative map, not from any date of possible reconsideration action.
30. Twenty-one (21) of the residential units shall be retained as affordable ownership units for low and very low income households, pursuant to LUO Section 22.12.070. Prior to recordation of the final map, the subdivider shall enter into a recorded agreement with the County to assure the provision of the affordable units. Said agreement shall be acceptable to County Counsel. Any exceptions allowed by LUO 22.12.070A(4) and/or LUO 22.12.070D(3) shall apply to ownership units at the time of sale of the unit.,